

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA

NOLEN SCOTT ELY, ET AL.,

Plaintiffs,

vs.

CASE NO.: 3:09-cv-02284-MCC
Chief Magistrate Judge
Martin C. Carlson

CABOT OIL & GAS
CORPORATION,

Defendant.

/

Deposition of **JAMES PINTA, JR.**, held on
Tuesday, August 11, 2015, taken at the Law Offices of
Norton Rose Fulbright, US LLP, 666 Fifth Avenue, New
York, New York, 10105, commencing at 9:43 a.m., before
Vicki Livings, a Shorthand Reporter and Notary Public in
and for the State of New York.



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2 hearing board?

3 | A. Yes.

4 Q. Was the meeting in Canonsburg for
5 preparation for the hearing in that matter?

6 A. I believe it was.

7 Q. What was going to be your role in
8 that hearing?

9 A. In that hearing my assignment was to
10 review and evaluate the water treatment
11 systems, the ten locations that Cabot had
12 installed, only those ten, and also to review
13 Mr. Ruben's affidavit file in that matter.

14 Q. Mr. Ruben filed an affidavit in the
15 administrative matter?

16 A. I believe he did, yes.

17 Q. You said part of your assignment was
18 to evaluate water treatment systems, only
19 those ten?

20 A. Correct, they are the only ones I
21 looked at.

22 Q. How many treatment systems are there
23 in the Dimock, Springville area?

24 A. I don't know

25 8. But you know there are more than



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2 ten?

3 MR. WILSON: Object to form of the
4 question.

5 A. I don't know yes or no, I can't
6 answer that.

7 BY-MS.LEWIS:

8 Q. I'm intrigued by the word only, only
9 those ten.

10 A. Right, that's correct.

11 Q. Would you agree that to the ordinary
12 person by saying the word only, that means
13 there are more than those ten?

14 A. I'm trying to be as accurate as I
15 can as to what I did, and what my assignment
16 was.

17 Q. So your testimony under oath today
18 is that you have no idea whether there are
19 more than ten treatment systems placed by
20 Cabot in homes in the Dimock, Springville
21 area; is that your sworn statement?

22 A. I know of one other system in that
23 area.

24 Q. One other system, meaning there's a
25 different system that is in other homes, or



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1 2 A. I believe that's two different
2 3 things.

4 **BY-MS.LEWIS:**

5 Q. Answer any part of it, what you
6 wish.

7 MR. WILSON: Object to form of the
8 question.

9 A. Would you repeat the question.

10 MS. LEWIS: Would you read it back.

11 (*Whereupon, the record was read by
12 the reporter.*)

13 **BY-MS.LEWIS:**

14 Q. Who would know this community better
15 than you with respect to this case, with
16 respect to the geology and the property and
17 the community?

18 MR. WILSON: Object to form of the
19 question.

20 A. The physical landscape, the physical
21 residences, the treatment systems, quite a
22 few of the well sites, I know them very
23 well.

24 **BY-MS.LEWIS:**

25 Q. And you have had more hands-on



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Q. Does installation of water treatment systems in homes equal remediation; is that one and the same?

A. Yes.

Q. That's remediation of a problem; isn't that correct?

A. It is remediation of a situation.

Q. And a situation doesn't need to be remediated if there's not a problem, correct?

A. It depends what the definition of remediation is.

Q. Remediation fixes something, you're bringing it back to another state, correct, remediate, the definition? We could look it up on a computer.

A. I would say that's a fair statement.

Q. You're fixing a problem when you remediate something, you are repairing it, correct?

MR. WILSON: Object to form of the question. It's compound.

A. Would you repeat the question again.

MS. LEWIS: Would you read it back.

(Whereupon, the record was read by



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2 | the reporter.)

3 A. When you remediate something, you're
4 changing a situation.

5 | BY-MS. LEWIS:

6 Q. Wouldn't you call that dancing around
7 the definition? It's fixing a situation or

8

9 A. Again, I don't understand what you
0 mean by a problem.

11 Q. Let's focus explicitly on the ten
12 treatment households where treatment systems
13 were placed. Why were they placed there?

14 A. It's my opinion --

15 Q. That's not what I'm asking. If you
16 don't know, you don't know. If you know, I
17 want to know the answer.

18 Why were they placed there?

19 MR. WILSON: Object to form of the
20 question.

21 A. I don't know exactly why every
22 system was placed where they were placed, for
23 what reasons or reason, I don't know.

4 BY-MS. LEWIS:

Q. But the placement was to remediate,



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2 | correct?

3 A. The placement was to remediate their
4 drinking water.

5 Q. To what condition?

6 A. I don't know what condition.

7 Q. Did you know the condition before
8 the treatment systems were placed?

9 A. I have reviewed data to take a look
10 at that, yes.

11 Q. Based on reviewing data to take a
12 look at that, what was your determination in
13 any instance as to why a treatment system
14 was placed in any one of those ten homes?

15 A. The systems were placed, I believe,
16 for a variety of reasons, some of which were
17 to lower the concentrations of certain
18 constituents in the ground water.

19 Q. In some instances it's your opinion
20 that the treatment systems were placed there
21 in an effort to lower concentration of
22 constituents in ground water; is that
23 correct?

24 A. Yes.

25 Q. And those were elevated



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concentrations, correct?

A. I don't know what you mean by elevated.

Q. There are ranges of normal, correct?

A. There's a background concentration, yes.

Q. So, were those treatment systems

there to remediate background levels, background concentrations of constituents in ground water?

A. I believe that's the case, yes.

Q. Were there any treatment systems in Dimock or Springville that you know of prior to these ten being placed?

A. I believe I know of one such system before these ten systems were placed.

Q. Which residence was that?

A. I believe at the Sautner residence.

Q. What kind of system was at the Sautner residence?

A. I'm not familiar with what they were treating.

Q. With respect to task one of your assignment, which was to assemble, check



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2 A. I'm trying to think back. I don't
3 believe I have worked for a plaintiff suing
4 on oil and gas company.

5 Q. And you've provided expert reports
6 providing the efficacy of water treatment
7 systems, correct?

8 A. Yes.

9 Q. And where you say, quote, expert
10 reports, when did you last provide an expert
11 report evaluating the efficacy of water
12 treatment systems?

13 A. That would have been the supplemental
14 report that was submitted in this matter.

15 Q. Prior to that when was the last time
16 that you evaluated the efficacy of water
17 treatment systems?

18 A. That would have been in preparation
19 of a report in the environmental hearing
20 board matter.

21 Q. Also this case?

22 A. Yes, ma'am.

23 Q. Prior to your assistance in the
24 administrative matter in providing expert
25 reports, the administrative matter related to



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2 this case, what was the previous time when
3 you evaluated the efficacy of water treatment
4 systems?

5 A. For an expert report -- can you read
6 that back.

7 (Whereupon, the record was read by
8 the reporter.)

9 A. That would have been an evaluation
10 of the treatment system. I don't remember
11 the date of the evaluation.

12 BY-MS.LEWIS:

13 Q. So there might have been one other
14 time prior to this case where you may have
15 evaluated the efficacy of treatment systems?

16 A. The efficiency of existing treatment
17 systems. It's more than two and less than
18 five separate times.

19 Q. This is over 35 or more years,
20 correct?

21 A. Yes.

22 Q. Tell me what you can remember about
23 the two to five.

24 A. One was a treatment system that was
25 remediating an underground storage tank



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1 release, release from an underground storage
2 tank of petroleum products.

3
4 Q. That was a water treatment system?

5 A. Yes, that was a water treatment, it
6 was a pump and treat system.

7 Q. What is a pump and treat system?

8 A. A pump and treat system pumps the
9 water out of the ground, treats it and then
10 does something with the treated water, either
11 discharges it to the surface, or puts it
12 back into the ground or water system or
13 plant that uses the water for noncontact
14 cooling water, and then discharges it, so it
15 could be used for a variety of purposes.

16 Q. But not drinking, right?

17 A. In one case it was a drinking water
18 system.

19 Q. This case here --

20 A. Not the underground storage tank, no.

21 Q. Was that in Texas or someplace else?

22 A. I believe that was in North
23 Carolina.

24 Q. What do you remember about --

25 A. There's another one that involved a



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2 drinking water treatment system, it was
3 public water.

4 Q. It was for public water?

5 A. Yes, it was treating ground water,
6 and it was supplying water to a public water
7 system.

8 Q. Like a municipality's water system?

9 A. Yes.

10 And another system I evaluated was a
11 vapor extraction system at a dry cleaning
12 operation; remediating dry cleaning fluids
13 that had been released to the environment.

14 Q. Was that vapor extraction system to
15 bring the water to drinking level standards,
16 or something else?

17 A. That particular system was to bring
18 the soil to cleanup standards.

19 Q. And there were also vapor issues?

20 A. Yes.

21 Q. Did you work on air purification or
22 remediation of contaminated air in that
23 particular --

24 A. In that particular case, no.

25 Q. So, we have the pump and treat at a



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2 adjusted, we typically do that, but that
3 wouldn't essentially be an efficiency report.

4 We have done work with remediation
5 systems at several petroleum facilities, a
6 refinery or five refineries. These are
7 remediation systems that are installed and
8 operating, and we're constantly --

9 I would call that more of
10 optimization, so evaluation of optimization of
11 those systems.

12 Q. You have no experience designing
13 these systems, correct; I think you already
14 stated that, right?

15 A. I'm not an engineer; however, I have
16 extensive experience in what I term
17 conceptual design.

18 Q. Like do you actually draw an idea on
19 paper?

20 A. It might work that way.

21 Q. And you give it to an engineer?

22 A. Yes, I do that, and I essentially
23 put various unit operations that I know have
24 worked in certain instances, for example,
25 aeration, filtration, coordination, air



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2 stripping, depending on -- vapor extraction,
3 carbon filtration, things like that.

4 And then I take these unit
5 operations with my, quote, unquote, conceptual
6 design and hand them to an engineer, and the
7 engineer asks the pertinent questions; what
8 does it flow through, what is the contaminant
9 loading or constituent loading that you want
10 to remove, what is the desired output, what
11 is the objective of the treatment process,
12 things like that.

13 So it's not the nuts and bolts
14 design that I do. It's more the conceptual
15 design, and evaluation of how the engineer
16 does his job.

17 Q. So you certainly have no role in
18 installing these things yourself, correct?

19 A. No.

20 Q. That's left to others?

21 A. Yes.

22 Q. And you don't have any particular
23 experience operating them personally, correct,
24 you might see the results, do a conceptual
25 design, but you're not on the ground putting



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2 them together, overseeing, correct?

3 A. That's correct.

4 Q. And you certainly don't have anything
5 to do with -- maybe you do. Do you have
6 any role in the maintenance of these units?

7 A. In the sense if I'm evaluating a
8 treatment system, and it doesn't appear to be
9 doing what it needs to be doing, I may
10 suggest that something be done to optimize a
11 particular system.

12 Q. In the case of the ten households in
13 Dimock for which you included table 19B, do
14 all of those treatment systems appear to be
15 doing what it needs to be doing, using your
16 words?

17 MR. WILSON: Object to form of the
18 question.

19 A. I don't believe that all of the ten
20 systems are operational at this time.

21 **BY-MS.LEWIS:**

22 Q. How many are?

23 A. I know one that is not fully
24 operational, or Cabot cannot get samples to
25 evaluate.



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2 Q. Which is that?

3 A. I believe that is the Johnson
4 Galenas.

5 Q. Is it your testimony that nine out
6 of ten are appearing to be doing what it
7 needs to do, that's using your words, nine
8 out of the ten, and you don't know about
9 Johnson?

10 A. Correct, I believe that is accurate.

11 MR. WILSON: We'd like to take a
12 break.

13 (Whereupon, a brief recess was
14 taken.)

15 MS. LEWIS: I'll withdraw the last
16 question.

17 BY-MS.LEWIS:

18 Q. As far as you know, other than the
19 Johnsons, of the nine other treatment systems
20 in Dimock that you evaluated data from, are
21 they working as they should, performing as
22 they should?

23 A. Again, I don't know the exact
24 operational condition of every system because
25 I'm not involved in that, and was not asked



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2 to evaluate that. What I was asked to
3 evaluate was the operational treatment
4 efficiency of these systems.

5 So, at times we'll have data that
6 doesn't allow me to make that treatment
7 system evaluation; for example, at times
8 there will be just influent data, or at
9 times effluent data.

10 So without having a data point where
11 we have influent constituent concentrations
12 and effluent constituent concentrations, I
13 can't evaluate whether or not a treatment
14 system is working as it should that
15 particular day.

16 Q. But you're going to testify at
17 trial, if asked, that the treatment systems
18 are working efficiently; is that correct?

19 A. The treatment systems are working at
20 greater than, significantly greater than 75,
21 85, in some cases 99.9 percent efficiency.

22 MS. LEWIS: Would you read that
23 back.

24 (Whereupon, the record was read by
25 the reporter.)



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2 BY-MS.LEWIS:

3 Q. At which home is the unit working at
4 99.9 efficiency?

5 A. I believe it's the Bill Ely
6 treatment system in removal of methane.

7 Q. So for methane, the Bill Ely system
8 is working well, efficiently?

9 A. Very much so.

10 Q. How about with respect to other
11 aspects -- first of all, what was the
12 objective of the treatment system for the
13 Bill Ely household?

14 A. I don't know what the objective of
15 the treatment system was. That was not my
16 -- what I was hired to evaluate.

17 Q. Isn't that something you need to
18 assess in determining whether it's working
19 efficiently, how close it is to achieving its
20 goal, to what extent it's achieving the goal
21 of the placement of the system; isn't that a
22 factor?

23 A. The factor there would be to compare
24 the removal of constituents to some
25 benchmark; for example, for aluminum, a



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2 was installed and online and operational.

3 Q. Are you talking about Exhibit-19B or
4 something else?

5 A. I can't remember which number.

6 Q. The new exhibit that was provided to
7 me within the last couple of days regarding
8 treatment system data, which we're talking
9 about now, is there a notation on this?

10 A. There's a notation that they are all
11 indicated by location.

12 Q. Did you make up this table?

13 A. Yes, I did.

14 Q. What point type did you select?

15 A. I don't remember.

16 Q. I've seen mouse type before, but you
17 agree this is very difficult to read, your
18 19B?

19 MS. LEWIS: Would you mark this as
20 Exhibit-3A.

21 (Whereupon, Plaintiffs' Exhibit-3A,
22 six pages taken from Exhibit-19A were marked
23 for purposes of identification.)

24 BY-MS. LEWIS:

25 Q. We're showing you what has been



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2 marked as Plaintiffs' Exhibit-3A, six pages
3 of data showing your evaluation of the
4 efficiency of the ten treatment systems in
5 Dimock; is that correct?

6 A. No.

7 Q. What is Exhibit-3A?

8 A. That's from my Exhibit-19B, from my
9 supplemental report that describes that, that
10 tabulates the data for location ten.

11 Q. So this is one location?

12 A. Yes, ma'am.

13 Q. Do you have this data for all of
14 the ten wells?

15 A. It's one of the ten locations, yes.

16 Q. And that was included in your
17 original report -- when did I receive these,
18 all ten?

19 A. These are the exhibits to the
20 supplemental report that was submitted on
21 June 26.

22 Q. 2015?

23 A. Yes.

24 Q. You attached all ten, you had
25 exhibits that covered all of the ten



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2 locations; is that correct?

3 A. Yes, ma'am.

4 Q. And you've just updated data for
5 location ten and not for other locations?

6 A. For all ten locations.

7 MR. WILSON: To clarify, if it's got
8 an A designation to it, as in Exhibits-10A
9 through 18A, those were served on you, by my
10 notes, on July 29.

11 MS. LEWIS: Electronically?

12 MR. WILSON: Yes, and 19B replaced
13 19A, and that was served --

14 MS. LEWIS: A couple of days ago.

15 MR. WILSON: Yes.

16 **BY-MS.LEWIS:**

17 Q. I can't read these, so I'm going to
18 have you tell me, generally looking at the
19 data that you provided to demonstrate that
20 these ten units are working efficiently, what
21 data have you provided on which to make that
22 decision?

23 A. The data tables contain data from
24 sampling of influent water and effluent
25 water, and in some cases unfortunately in



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